

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 6988 of 2007()

CRIME NO. 224/07 OF ELATHUR POLICE STATION
CMP.1167/2007 of D.C. & SESSIONS COURT,KOZHIKODE
.....

PETITIONER/ACCUSED

SURENDRAN, AGED 54 YEARS,
S/O.RARICHAN, MAKKADAKAVIL THAZHATH HOUSE,
MAKKADA AMSOM, DESOM, KOZHIKODE TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, ELATHUR POLICE
STATION, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

B.A.No. 6988 of 2007

Dated this the 21st day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under section 306 I.P.C. The crime was initially registered under Section 174 Cr.P.C. under the caption 'unnatural death'. The crux of the allegations is that a woman, with whom the petitioner had non-formal relationship, had committed suicide. In the course of investigation, it was revealed that she had died leaving a suicide note. After the investigation the allegation under Section 306 I.P.C. has been raised against the petitioner herein. Investigation is in progress. He apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Even admittedly the petitioner had only an illegitimate relationship with the deceased. There was no marriage admittedly between them. The deceased appears to have been hurt by the fact that the petitioner had

developed intimacy with yet another woman. In these circumstances, even the grievance of the deceased, accepting all allegations, cannot be said to be legitimate. In any view of the matter, the petitioner does not deserve to endure the trauma of arrest and detention. He may be granted anticipatory bail, submits the learned counsel.

3. The learned Prosecutor opposes the application. The case diary has been placed before me. The learned Prosecutor submits that it was not merely a case of intimacy between the petitioner and the deceased. The suicide note shows that the petitioner had abetted commission of suicide by the deceased. At this stage of investigation I shall not embark on any detailed discussion on merit about the acceptability of the allegations raised or the credibility of the data collected. There are allegations which reveal that the petitioner had physical as well as monetary relationship with the deceased. I have gone through the suicide note. Suffice it to say that on an anxious consideration of all other relevant circumstances, I am unable to perceive any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in

favour of the petitioner. This, I agree with the learned Prosecutor, is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

tm